

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1360-11
Bill No.: Truly Agreed To and Finally Passed SS for HS for HCS for HBs 349, 120, 136, & 328
Subject: Crimes and Punishment; Firearms and Fireworks; Law Enforcement Officers and Agencies
Type: Original
Date: May 27, 2003

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	(\$152,890)	(\$184,525)	(\$189,731)
Total Estimated Net Effect on General Revenue Fund	(\$152,890)	(\$184,525)	(\$189,731)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Criminal Records System	\$494,201	\$475,595	\$469,961
Highway	(\$47,800)	\$0	\$0
Total Estimated Net Effect on Other State Funds	\$446,401	\$475,595	\$469,961

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 18 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$6,200,000 to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Attorney General, Department of Public Safety – Capitol Police, – Missouri State Water Patrol, – Office of the Director, Department of Conservation, Department of Natural Resources,** and the **State Auditor’s Office** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator (CTS)** assume, from the standpoint of the judiciary, two primary impacts would be: a possible small increase in criminal prosecutions for violations of the law, and any increase in small claims cases. CTS would not anticipate the increased volume of cases to significantly increase the workload of the state courts.

Officials from the **Department of Mental Health (DMH)** assumed all responsibility for action under this bill fall upon the county sheriff, local courts, or the Department of Revenue. Therefore, this has no fiscal impact to the DMH.

L.R. No. 1360-11

Bill No. Truly Agreed To and Finally Passed SS for HS for HCS for HBs 349, 120, 136, & 328

Page 3 of 18

May 27, 2003

ASSUMPTION (continued)

Officials from the **Office of Prosecution Services** assume the costs of the proposed legislation could be absorbed by prosecutors.

Officials from the **Office of State Public Defender** assume existing staff could provide representation for those cases arising where indigent persons were charged with fraudulently obtaining a permit to carry a concealable firearm. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or in the new additional cases.

In response to a previous version of this proposal, officials from the **Cole County Treasurer's Office** assumed the total cost impact to their office is minimal since the only requirement will be to establish an account for the County Sheriff's Department. Officials assume any interest accrued by this account would cover any banking cost. Personnel cost would be routine and minimal to the day to day operation.

Officials from the **Office of Secretary of State (SOS)** assume the proposal authorizes permits to carry concealed weapons. This may result in the Department of Revenue, Missouri Gaming Commission, and possibly other agencies promulgating rules to implement the provisions of this act. These rules will be published in the *Missouri Register* and the *Code of State Regulations*. Based on experience with other divisions, the rules, regulations, and forms issued by the Department of Revenue and Missouri Gaming Commission could require as many as 22 pages in the *Code of State Regulations* and half again as many pages in the *Missouri Register*, as cost statements, fiscal notes, and the like are not repeated in the Code. The estimated cost of a page in the *Missouri Register* is \$23 and the estimated cost of a page in the *Code of State Regulations* is \$27. Based on these costs, the estimated cost of the proposal is \$1,353 in FY 04 and unknown in subsequent years. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded, or withdrawn.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which would require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assume the proposal authorizes permits to carry concealed weapons. Penalty provisions, the component of the bill to have potential fiscal impact for DOC, is for a class A misdemeanor or a class D felony. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY02 average of \$35.52 per inmate per day, or an annual cost of \$12,965 per inmate) or through supervision provided by the Board of Probation and Parole (FY02 average of \$3.10 per offender per day, or an annual cost of \$1,132 per offender).

The DOC does not anticipate the need for capital improvements. It must be noted that the cumulative effect of various new legislation, if passed into law, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

The following factors contribute to DOC's minimal assumption:

- ▶ DOC assumes the narrow scope of the crime will not encompass a large number of offenders; and
- ▶ The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume the legislation would require the Information Systems Division (ISD) to design, build, implement, and maintain a currently non-existent major application to house concealed firearms permit data. The estimates were based upon the types of information that would have to be entered, edited, stored, and retrieved. The information would specifically be: name, address, gender, date and place of birth, etc.

L.R. No. 1360-11

Bill No. Truly Agreed To and Finally Passed SS for HS for HCS for HBs 349, 120, 136, & 328

Page 6 of 18

May 27, 2003

ASSUMPTION (continued)

The ISD would require 1 FTE Computer Information Tech. Specialist I (at \$41,556 per year) as a result of the legislation. The FTE would be responsible for designing, developing, modifying, and supporting the MULES/Interface, as well as designing, developing, modifying, and supporting the Concealed Firearms Permits application. The MHP estimates the salaries, fringe benefits, equipment, and expense for the FTE to be \$57,250 in FY 04; \$66,314 in FY 05; and \$87,974 in FY 06.

According to the ISD, there will be additional costs associated with the State Data Center. There is not sufficient quantifiable information from which to present other than an estimate of the dollar figure. The July to September MULES statistics were used to arrive at an estimate of fiscal impact for the State Data Center Charges. During the fiscal year 2002, the Patrol paid the following CICS Service Units and CICS transactions:

CICS transaction cost	\$628,347
CICS Service Units cost	<u>\$1,043,010</u>
Total FY2002 CICS costs	\$1,671,357

Estimated recurring increase in transaction costs due to proposed legislation is 5%. ISD estimates the State Data Center recurring costs to be \$83,568 per year ($\$1,671,357 \times 5\%$). The MHP estimates the State Data Center transaction costs to be \$69,640 in FY 04; \$120,505 in FY 05; and \$124,120 in FY 06.

There would also be additional maintenance costs for the State Data Center. ISD assumes there would be 60,000 permits. Based upon empirical experiences, virtually every permit would have at least an entry, an inquiry and a modification. All of this data was used to estimate the increased costs at the State Data Center for storage, file backups, and the processing of the entries, inquiries, revocations, and modifications. Based on these estimates, the recurring State Data Center costs for the maintenance of the system would be \$31,200 per year. After the first year, there would be an anticipated 40% increase in permits, which would make the State Data Center charges \$43,200 per year. The MHP estimates the State Data Center maintenance costs to be \$26,000 in FY 04; \$44,990 in FY 05; and \$46,340 in FY 06.

The Patrol assumes that while there would be an increase in workload for the ISD helpdesk, it would likely not require additional FTE at this time. If there is an unexpected increase in job responsibilities as a result of this legislation, additional FTE may be required.

The MHP estimates the total cost of the proposed legislation to the General Revenue Fund to be \$152,890 in FY 04; \$231,809 in FY 05; and \$238,434 in FY 05.

ASSUMPTION (continued)

The MHP's Criminal Records and Identification Division (CRID) assumes that the intent of the legislation is for the sheriff to conduct a criminal background check. Previous research estimated 60,000 applications for the first year, which would average out to 250 background checks per day. It takes an average of 12.49 minutes to complete a background check. There would be an expected 40% increase in permits requested the following years.

60 minutes in an hour divided by 12.49 minutes per check = 4.81 checks per hour per FTE
4.81 cards per hour x 1856 hours in a year = 8,927 per year per FTE
60,000 divided by 8,927 = 6.7 = 7 FTE needed in FY 04.

CRID assumes the proposal would require 3 FTE Fingerprint Technicians (each at \$21,192 per year), 2 FTE AFIS Entry Operators (each at \$18,132 per year), 1 FTE Criminal History Technician (each at \$21,720 per year), and 1 FTE Account Clerk (each at \$17,568 per year). These FTE would perform duties as follows: Fingerprint Technicians – Job duties would include classifying fingerprints, marking cores, searching prints through AFIS, verifying prints, assigning identification numbers and filing prints. AFIS Entry Operators – Job duties would include sorting prints, verifying information cards, performing name checks, and requesting rap sheets. Criminal History Technician – Job duties would include reviewing current rap sheets, contacting criminal justices agencies for missing data and verification, coordinating Missouri records with FBI records and verifying rap sheets for mailing. Account Clerk – Job duties would include reconciling fee payments with background searches, preparing copies of requests, documenting payment, completing transmittal and depositing fund sheets, paying invoices from FBI, receiving, reconciling and depositing fees received from the sheriffs. Due to an increase in permits following the first year, (from 60,000 to 84,000) 2 additional FTE would be required. They would be a Criminal History Technician and a Fingerprint Technician. Their salaries, equipment and expenses are only calculated in the FY05 and FY06 dollar amounts. MHP estimates the cost of the FTE to be \$205,799 in FY 04; \$300,194 in FY 05; and \$300,883 in FY 06.

The Patrol's Criminal Records and Identification Division receives \$14 for each fingerprint check done at the state level and \$24 for each fingerprint check that is forwarded to the FBI. The \$14 fee for the state fingerprint check is revenue generated and deposited into the Criminal History Record Fund for the purpose of maintenance and enhancement of technology of the

L.R. No. 1360-11

Bill No. Truly Agreed To and Finally Passed SS for HS for HCS for HBs 349, 120, 136, & 328

Page 9 of 18

May 27, 2003

division. The \$24 fee collected for the FBI checks is passed through to the FBI so it is not revenue generated by the Criminal Records and Identification division.

ASSUMPTION (continued)

1st Year

60,000 applications x \$38 (\$14 + \$24)	= \$1,900,000 (10 months Aug 28 – June 30)
60,000 applications x \$24	= <u>(\$1,200,000)</u> (10 months of pass through to FBI)
Total money remaining in fund	= \$ 700,000

2nd Year and beyond

84,000 (60,000 x 40 % increase) x \$38	= \$3,192,000
84,000 x \$24	= <u>(\$2,016,000)</u> (Pass through to FBI)
Total money remaining in fund	= \$1,176,000

MHP estimates the net impact to the Criminal Records System Fund to be a net revenue of \$494,201 in FY 04; \$875,806 in FY 05; and \$875,117 in FY 06.

Oversight assumes, based on information received from the Texas Department of Public Safety, that a large majority of concealed weapons permits will be received in the first year and the number of applications received in subsequent years will increase. Therefore, the 2 additional FTE in FY 05 and FY 06 are not included in this estimate. Also, State Data Center maintenance and transaction costs are based on \$31,200 and \$83,586 per year, respectively. The total revenue for fingerprint checks and the pass through expense to the FBI have been estimated based on 60,000 checks per year.

Officials from the **Department of Revenue (DOR)** assume the legislation will require the Director of Revenue to issue a conceal carry endorsement on a driver or nondriver license to a qualified applicant and maintain record of such endorsement in order to make it available to law enforcement.

The proposal would impact the DOR's Division of Motor Vehicle and Driver Licensing:

Internal Programming Requirements:

This proposal will require 400 hours of internal programming to modify MEDL, MODL, and CDIS screens, issuance update process, and law enforcement inquiry process.

FY04

400	Hours of overtime programming
x\$25	Hourly overtime rate for Computer Information Technologist Specialist I
\$10,000	Total Cost of Internal Overtime Programming

ASSUMPTION (continued)

Internal Testing Requirements:

This proposal will require 640 hours of overtime to create requirements, design documents, develop tests, and complete testing.

FY04

640	Hours of overtime testing
<u>x\$20</u>	Hourly overtime rate for Computer Information Technologist II
\$12,800	Total Cost of Internal Overtime Testing

External Programming Requirements:

This proposal will require contracted programming to modify the license document and the issuance transaction records in the over-the-counter system.

FY04

250	Hours of contracted programming
<u>x100</u>	Hourly rate of contracted programming
\$25,000	Total Cost of Contracted Programming

The DOR estimates the total cost of the proposal to the Highway Fund to be \$47,800 in FY 04.

The State of Texas passed concealed firearms legislation which went into effect January 1, 1996. At that time, Texas had an estimated population of 18,000,000. The **Texas Department of Public Safety (Texas DPS)** received approximately 200,000 applications in the first year. Texas DPS received a cumulative total of 260,500 applications for a permit from the law's inception through 2001. A large majority of concealed weapons permits were received in the first year, and the number of applications subsequent to that has decreased. Missouri has a population of approximately 5,600,000; therefore, applying the same ratio, **Oversight** assumed in similar proposals that Missouri would have 62,000 applications in the first year resulting in \$3.1

million (62,000 x \$50 application fee) in revenue for the various Sheriff's revolving funds. After the initial rush, Oversight assumed the number of new applications would drop substantially.

Oversight assumes that local law enforcement agencies could streamline the concealed firearms permitting process by following those procedures used to issue a permit to own a handgun in

Missouri. Because the anticipated 62,000 applications in Missouri would be distributed over the entire state, Oversight assumes that most third and fourth class county law enforcement agencies would be able to handle additional duties resulting from this proposal with existing staff.

ASSUMPTION (continued)

However, with a \$100 permit fee, Oversight assumes the cost of issuance of a permit could exceed the revenue generated by the county sheriffs, and therefore, has shown the net fiscal impact to the county sheriffs for issuance of these permits as possibly unknown net revenues or net losses.

Oversight assumes that there would be long-term impact to the local law enforcement agencies as the new concealed firearm permit applications diminished and those permitted individuals renewed their permit every three years. Renewed permit fees would be \$50 and would go to the county treasuries and the City of St. Louis as outlined in this proposal. Ongoing costs to the local law enforcement agencies to process permit applications and renewals would probably exceed revenues generated from new permit applications and renewals.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
GENERAL REVENUE FUND			
<u>Costs – Missouri State Highway Patrol</u>			
Personal Service (1 FTE)	(\$35,496)	(\$43,660)	(\$44,751)
Fringe Benefits	(\$17,886)	(\$22,000)	(\$22,550)
Equipment and Expense	(\$3,868)	(\$654)	(\$673)
State Data Center – Maintenance	(\$26,000)	(\$32,136)	(\$33,100)
State Data Center – Cost	<u>(\$69,640)</u>	<u>(\$86,075)</u>	<u>(\$88,657)</u>
<u>Total Costs – MHP</u>	<u>(\$152,890)</u>	<u>(\$184,525)</u>	<u>(\$189,731)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$152,890)</u>	<u>(\$184,525)</u>	<u>(\$189,731)</u>

**CRIMINAL RECORDS SYSTEM
FUND****Revenue – Missouri State Highway Patrol**

Fingerprint fees	\$1,900,000	\$1,900,000	\$1,900,000
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Costs – Missouri State Highway Patrol

Personal Service (7 FTE)	(\$118,839)	(\$146,171)	(\$149,826)
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Fringe Benefits	(\$59,883)	(\$73,656)	(\$75,497)
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Equipment and Expense	(\$27,077)	(\$4,578)	(\$4,716)
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Pass through to FBI	<u>(\$1,200,000)</u>	<u>(\$1,200,000)</u>	<u>(\$1,200,000)</u>
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<u>Total Costs</u> – MHP	<u>(\$1,405,799)</u>	<u>(\$1,424,405)</u>	<u>(\$1,430,039)</u>
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**ESTIMATED NET EFFECT ON
CRIMINAL RECORDS SYSTEM
FUND****\$494,201****\$475,595****\$469,961****HIGHWAY FUND****Costs – Department of Revenue**

Programming Costs (Overtime)	(\$10,000)	\$0	\$0
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Testing Costs (Overtime)	(\$12,800)	\$0	\$0
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Programming Costs (Contractor)	<u>(\$25,000)</u>	<u>\$0</u>	<u>\$0</u>
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<u>Total Costs</u> – DOR	<u>(\$47,800)</u>	<u>\$0</u>	<u>\$0</u>
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**ESTIMATED NET EFFECT ON
HIGHWAY FUND****(\$47,800)****\$0****\$0**

FISCAL IMPACT - Local GovernmentFY 2004
(10 Mo.)

FY 2005

FY 2006

COUNTY SHERIFF'S REVOLVING FUNDIncome - Counties and City of St. Louis

Permit Fees

\$6,200,000

Unknown

Unknown

Income - Counties and City of St. Louis

Fine and Citation revenue

\$0 to Unknown

\$0 to Unknown

\$0 to Unknown

Costs - Counties and City of St. Louis

Costs of issuance of permits

(Unknown)(Unknown)(Unknown)**ESTIMATED NET EFFECT ON
COUNTY SHERIFF'S REVOLVING FUND**\$6,200,000 to
(Unknown)Unknown to
(Unknown)Unknown to
(Unknown)FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

The proposed legislation would authorize county sheriffs to issue certificates of qualification for a concealed carry endorsement and would create the county sheriff's revolving fund, in which the fees for these permits would be deposited. Any money in a county sheriff's revolving fund could be expended at the direction of the sheriff or his or her designee, without prior approval of the governing board of the county, to be used by law enforcement agencies for the purchase of equipment and to provide training.

The proposal would also amend the crime of unlawful use of a weapon.

The proposal would set forth the qualifications necessary to acquire a certification of qualification to obtain a conceal carry endorsement and a procedure by which the certificates of qualification would be granted by county sheriffs to anyone meeting the qualifications. Permits

would be valid for three years.

DESCRIPTION (continued)

QUALIFICATIONS FOR OBTAINING A CONCEALED CARRY ENDORSEMENT

To qualify for a concealed carry endorsement, individuals would: (1) Be at least 23 years of age; (2) Be a citizen of the United States; (3) Have resided in Missouri for at least six months or a member or spouse of a member of the armed forces stationed in Missouri; (4) Not have been found guilty of a felony; (5) Not have been found guilty, in the five years preceding the application, of a misdemeanor involving a crime of violence, or two misdemeanors involving either alcohol-related driving offenses or possession of a controlled substance; (6) Not be a fugitive from justice; (7) Not be currently charged with a felony; (8) Not be dishonorably discharged from the armed forces; (9) The sheriff has a reasonable belief that a pattern of previous behavior documented in public records makes it likely the applicant will present a danger to self or others; (10) Not have been adjudged mentally incompetent for five years prior to the application; (11) Not be the respondent in an order of protection currently in effect; (12) Be fingerprinted; (13) Clear a criminal background check by the state and the Federal Bureau of Investigation; and (14) Comply with training requirements set forth in the bill.

TRAINING REQUIREMENTS

Applicants for a concealed carry endorsement would complete a firearms safety course provided by an instructor certified by a state or federal law enforcement agency or the National Rifle Association. The proposal would specify the required curriculum which would include classroom work and live firing exercises. The proposal would set forth the training required for the certification of a firearms safety instructor. Instructors would be required to keep their course records available for at least four years. Instructors who provide false information about the performance of an applicant in the training program would be guilty of a class C misdemeanor.

ADMINISTRATIVE PROVISIONS

Sheriffs in first classification counties could authorize police chiefs in the municipalities in the county to process applications for concealed firearms permits. Sheriffs would reimburse the municipalities for the reasonable expenses incurred as a result. Sheriffs would request the criminal background check within three working days of the submission of the completed application and would issue a certificate of qualification to the applicant within three days of the receipt of the completed background check. Sheriffs could issue a certificate without a federal criminal background check if the background check has not been received within 45 days.

Sheriffs would deny an application if there is reason to believe an applicant lied on the application. Denials would be communicated in writing, state the grounds for denial, and inform the applicant of the right to appeal for a 30-day period. The proposal would set forth an appeal DESCRIPTION (continued)

form and a process by which appeals could be made through the small claims court. Sheriffs would be required to keep records of all applications and report the issuance of all permits to the Missouri Uniform Law Enforcement System (MULES). Application fees could not exceed \$100, and renewal fees could not exceed \$50.

The Department of Revenue would issue the concealed carry endorsement by issuing a new driver's or nondriver's license containing the endorsement designation to the applicant. The application would contain a conspicuous warning that false statements would constitute perjury, a class D felony. Any person attempting to transfer, alter, or use the endorsement of another person or otherwise obtain an endorsement through false representation would be guilty of a class A misdemeanor. Endorsements issued to anyone who later fails to meet any of the requirements for an endorsement would be suspended or revoked. Revocation would be reported in MULES. An endorsement holder must notify the department within 30 days of changing his or her name or address, or the endorsement would become invalid. Endorsement holders who have their endorsement revoked could petition the small claims court for reinstatement. Any person aggrieved by a final decision in small claims court could petition the associate circuit court for a trial de novo. The court, upon a finding that a plaintiff brought an action against a permit holder without a reasonable basis and with an intent to harass the endorsement holder, could assess all costs and fees to the plaintiff, including attorney fees, which are presumed to be \$150 per hour.

LIMITATIONS ON WHERE CONCEALED FIREARMS MAY BE CARRIED

Permits to carry a concealed weapon would not be valid in many places, including: police stations; polling places on election day; correctional facilities; courthouses; airports; bars; schools; child care facilities; hospitals; stadiums; amusement parks; gambling facilities; churches; any place where the carrying of a firearm is prohibited by federal law; the meeting place of any elected officials (except for the elected officials themselves who have permits); or any privately owned property where the owner has posted that the premises is off-limits to concealed firearms. The proposal would also allow governmental units to limit concealed firearms in their public buildings. Violating prohibitions on carrying concealed firearms in certain locations would be grounds for being denied access to or being removed from the premises. Frequent violators would be subject to monetary penalties and permit suspensions.

DESCRIPTION (continued)

The proposal would also change the crime of unlawful use of a weapon by: (1) Removing the prohibition on the carrying of a firearm into any public gathering; (2) Allowing a person who lawfully possesses a concealable firearm to transport the firearm in the passenger compartment of a motor vehicle; and (3) Increasing the penalty for possessing a firearm while intoxicated. Under current law, it is class B misdemeanor. The proposal would make it a class A misdemeanor if the gun is not loaded and a class D felony when it is loaded.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION


Office of Attorney General
Office of State Courts Administrator
Department of Mental Health
Department of Natural Resources
Department of Public Safety
 – Missouri State Water Patrol
 – Capitol Police
 – Director's Office
 – Missouri State Highway Patrol
Department of Corrections
Department of Revenue
Department of Conservation
Office of Prosecution Services
Office of State Auditor
Office of Secretary of State
Office of State Public Defender
Cole County Treasurer's Office

L.R. No. 1360-11

Bill No. Truly Agreed To and Finally Passed SS for HS for HCS for HBs 349, 120, 136, & 328

Page 18 of 18

May 27, 2003

A handwritten signature in black ink, reading "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director

May 27, 2003